



COUNCIL AGENDA: 04-06-04  
ITEM:

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Stephen Haase

**SUBJECT:** SEE BELOW

**DATE:** March 17, 2004

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Approved

Date

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**COUNCIL DISTRICT:** Citywide

**SUBJECT: PROPOSED ORDINANCE AMENDING PART 2, CHAPTER 13.48 OF TITLE 13 OF THE SAN JOSE MUNICIPAL CODE TO PROVIDE FOR CONSERVATION AREA PROCEDURES AND ADOPTION OF A RESOLUTION AMENDING THE SCHEDULE OF FEES AND CHARGES TO ESTABLISH FEES FOR CONSERVATION AREA DESIGNATION APPLICATIONS.**

## **RECOMMENDATION**

It is recommended that the City Council:

- 1) Approve the proposed ordinance amending Part 2, Chapter 13.48 of Title 13 of the San Jose Municipal Code to provide for Conservation Area procedures, and
- 2) Adopt a resolution amending the Schedule of Fees and Charges to establish a \$700 fee for Conservation Area designation applications.

## **BACKGROUND**

In December 2001 the City Council adopted an ornamental street lighting policy that allows for the use of such lights in designated historic districts and conservation areas. At that time, the Department of Planning, Building and Code Enforcement committed to develop and codify criteria and procedures for the designation of conservation areas in San Jose.

San Jose currently has five historic districts and three conservation areas, although there are no provisions in the Municipal Code for the designation of conservation areas. The City's three conservation areas are residential neighborhoods.

### **Historic Districts:**

- ◇ Hensley Historic District (City Landmark and National Register Historic District)
- ◇ Downtown Commercial Historic District (National Register Historic District)
- ◇ St. James Square Historic District (City Landmark and National Register Historic District)
- ◇ Port of Alviso (National Register and State Point of Historical Interest)
- ◇ River Street Historic District (City Landmark District)

Conservation Areas:

- ◇ Hanchett and Hester Park
- ◇ Naglee Park
- ◇ Palm Haven

From January through October of 2002, Planning staff worked with community members, the Historic Landmarks Commission and the Planning Commission on a proposal to establish a process for consideration of conservation areas. The final draft proposal from 2002 has changed little, although it has been refined through the current outreach effort. Many people contributed to the preparation and clarification of this process and many worthwhile suggestions were made for improving single family home related planning and building procedures. The final proposal reflects the comments generated through numerous forums, community meetings and public hearings.

The Historic Landmarks Commission discussed the proposed procedures at their March 3, 2004 meeting and voted (7-0) to forward a recommendation to the City Council to recommend approval of the proposal. There were no comments from the public.

The Planning Commission discussed the proposed procedures at their March 10, 2004 meeting and voted (6-0-1, Commissioner Zito absent) to forward a recommendation to the City Council to recommend approval of the proposal. There were no comments from the public.

**ANALYSIS**

Conservation areas are generally used around the country as a mechanism to preserve and enhance neighborhood areas that have a cohesiveness or character, but that do not merit consideration as an historic district. These areas warrant careful consideration during development planning due to their distinctive qualities and are important in the overall fabric of the community. In some cases, the conservation area approach is used where designation as an historic district is not supported by residents.

The proposal being brought forward for consideration is the result of San Jose's existing Conservation Area program, research from other city conservation programs, and numerous community meetings to assist in designing a program.

Purpose: Conservation Areas are established to provide a designation tool to recognize as well as to preserve and enhance the character of qualifying neighborhoods.

Definition: A Conservation Area would mean a geographically definable area of urban or rural character with identifiable attributes embodied by a) architecture, urban design, development patterns, setting, or geography and b) history.

Criteria: A proposed Conservation Area would need to satisfy the proposed definition of a conservation area and one or both of the following additional criteria:

1. The neighborhood or area has a distinctive character conveying a) a sense of cohesiveness through its design, architecture, setting, materials, or natural features and b) its history, or

2. The neighborhood or area reflects significant geographical or developmental patterns associated with different eras of growth in the City.

Procedures for Designation of Conservation Areas:

The proposal being brought forward for consideration reflects the process established for historic district designation in Part 2, Chapter 13.48 of the Municipal Code with differences as follows:

- The area is geographically definable and meets the definition and designation criteria for conservation areas
- Nominations for conservation areas could be made by the City Council, Planning Commission, Historic Landmarks Commission, or by application of persons who own at least fifty-one percent of the parcels proposed to be included in the conservation area or the authorized agents of such owners. Sixty percent owner consent is required for historic districts.
- The City Council would initiate the conservation area designation process by resolution.
- The Planning Director would refer the initiation to the Historic Landmarks Commission and to the Planning Commission for report and recommendation to the City Council. The Landmarks Commission, Planning Commission and City Council would hold public hearings with public noticing to 300 feet from the proposed conservation area boundaries and publication in a newspaper of general circulation.
- City Council would hold a public hearing and by written resolution approve, modify and approve, or deny the proposed designation of a conservation area.
- Proposed amendments to a conservation area would, like historic districts, be subject to the designation process. Fifty-one percent of the persons owning the parcels proposed to be included in the area to be amended would have to consent to the amendment. In addition, proposed amendments would have to be adjacent to the existing conservation area.

Members of the Planning Commission at previous study sessions on this issue suggested recording the designation of a conservation area on individual property titles. Planning staff is pursuing this suggestion with the County Recorder's office.

Application Requirements:

To ensure that each proposed conservation area is researched and documented according to accepted historic preservation standards, a historic resource survey would be required for each proposed conservation area. Historic resource surveys vary in the intensity and depth of information contained in the survey depending upon the final objective. Surveys for conservation areas would typically require a less intensive level than those prepared for a historic district. Community involvement in the survey and research process is recommended as a public education tool and a potential cost savings. The proposed basic requirements for a conservation area application and survey are outlined below:

- Applications would be subject to filing fees.
- Applications would be required to include:
  - Discussion of how the conservation area meets the criteria for conservation areas.
  - A statement describing the significance of a conservation area

- A description and map of the proposed conservation area boundaries with identification of the contributing properties
  - Documentation for each contributing resource in the conservation area
- All work would be required to be conducted according to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, National Register Bulletin #24, Guidelines for Local Surveys: A Basis for Preservation Planning, and the Office of Historic Preservation instructions, where applicable.

Design Review:

Conservation areas are proposed to be included in the San Jose Historic Resources Inventory as are the three existing conservation areas. All single-family homes listed in the Inventory are subject to the Single Family House Permit process found in Title 20 of the Municipal Code. This would mean that:

- All homes within the boundaries of a conservation area (whether they are contributing to the character of the area or not) would be subject to the single-family house permit process.
- Exterior changes to homes in conservation areas would be guided by Your Old House: Guide to Preserving San Jose Homes recently approved by City Council. The Single Family Design Guidelines would also be a reference. These guidelines are intended to assist property owners, architects, builders, designers, contractors, City staff and commissions in project preparation and review.

Finally, the linkage between conservation area designation and the opportunity for ornamental street lights has been a topic of discussion. Access to ornamental street lights, when funding is available, is proposed to be a benefit of listing as a conservation area. Staff believes that conservation area designation should not be pursued simply to obtain ornamental street lights as the designation would bring with it added expense as well as design review and permit requirements for all property owners in the designated area. In addition, ornamental street lights may not always be in keeping with the character of all conservation areas. Ornamental street lights would not be appropriate, for example, in a neighborhood of Eichler-designed homes that may qualify as a conservation area.

With regard to fees, Planning staff recommends an application fee consistent with historic district fees, for which the Department currently charges \$700. Staff estimates that these fees would be less-than-cost-recovery (as is the case with most of the historic preservation fees). The Conservation Area Fee is intended to recover some of the costs of processing the requested designation, but remain small enough so as not to completely discourage neighborhood groups from applying. The General Fund supports approximately 50% of the Historic Preservation program. Historic preservation fees are less-than-cost-recovery in order to encourage the preservation of San Jose's historic resources. Any conservation area applications resulting from approval of the proposal would require a reprioritization of current historic preservation activities. Additional revenue from the new fee category is not anticipated to be significant for the remainder of 2003-2004. No change to current Planning revenue estimates is recommended.

## **PUBLIC OUTREACH**

The proposed conservation area procedures are the result of a considerable public effort throughout 2002 and early 2004. In 2002 Planning staff established a working group of 15 to 20 residents interested in the process and used that group to help draft the proposal and get the word out to other residents. To date, the proposal has been brought to and refined by two study sessions at the Historic Landmarks Commission and Planning Commission, public meetings held by the Historic Landmarks Commission and Planning Commission, two community meetings held at City Hall in 2002 and 2004, and meetings with neighborhood associations and their representatives including, Market Almaden, University, Garden Alameda, and East Gardner/North Willow Glen. A more detailed list of participants is attached. In addition, information on the conservation area study is posted on the Planning Division website.

## **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

## **CEQA**

CEQA: Exempt, PP04-02-054.

STEPHEN M. HAASE, DIRECTOR  
Planning, Building and Code Enforcement

Attachments: Conservation Area Participants  
Frequently Asked Questions

